IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO. 18536 of 2004

Between:

M/s. Jothee Syndicate, a partnership firm, having its Office at Dhabagardens, Visakhapatnam, rep. by its Manager Sri Srinivasa Murthy.

..... PETITIONER

AND

Visakhapatnam Municipal Corporation, Visakhapatnam, rep. by its Municipal Commissioner.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to grant an order, direction or writ, more so in the nature of writ of Mandamus, declaring the action of the respondent in issuing the order/notice dt. 30.9.2004 directing removal of the cut outs of the petitioner situated in the petitioner's premises at Dhaba Gardens, Visakhapatnam as illegal, arbitrary and violative of principles of natural justice, Article 14 of the Constitution of India and Sections 420 and 421 of Hyderabad Municipal Corporations Act. 1955 and consequently set aside the order of the respondent issued on 30.9.2004 and further direct the respondent not to remove the cut outs or other structures available in the premises of the petitioner's theatre situated at Dhabagardens, Visakhapatnam.

Counsel for the Petitioner: MR.R.RAGHUNANDAN, Advocate.

Counsel for the Respondent: MR.T.S.VENKATA RAMANA, Standing

Counsel for Visakhapatnam Municipal

Corporation.

The Court made the following:

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Oral Order:

Heard the learned counsel for the petitioner and also learned Standing Counsel for respondent—Corporation. Both the counsel have argued and requested to dispose of the main writ petition itself.

By the impugned notice under Sections 420 and 421 of Hyderabad Municipal Corporations Act, 1955 (for short 'the Act'), which is made applicable to the Visakhapatnam Municipal Corporation, petitioner was called upon to remove the cutouts erected unauthorisedly, failing to do so the petitioner is liable to be prosecuted.

Whether the erection of cutouts comes under Sky-Signs and Advertisements or not has to be decided by the Commissioner under Section 421 (4) (b)(ii) of the Act. In view of the same, impugned notice will be treated as show cause notice and petitioner can submit his explanation within one week from the date of receipt of the order, and on submitting such explanation the Commissioner has to decide the nature of cutouts erected by the petitioner and payment of license fee, if any, and pass appropriate orders and intimate the same to the petitioner. On such communication, it is open for the petitioner to avail the remedies, if any, available under law. Till such orders are passed, subject to petitioner filing explanation, respondents shall not remove the cutouts, if not already removed.

The writ petition is accordingly disposed of. No costs.

_____ A.GOPAL REDDY, J.

11-10-2004

Note: Issue CC in three days.

(bo)

Murthy

ASSISTANT. REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. Commissioner, Visakhapatnam Municipal Corporation, Visakhapatnam.

2.2CD copies.